

Senate Bill 110

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Repeals sunset on early discussion and resolution program for resolving adverse health care incidents.

A BILL FOR AN ACT

1
2 Relating to resolving adverse health care events; amending ORS 30.278, 31.250 and 742.407; and re-
3 pealing sections 20 and 22, chapter 5, Oregon Laws 2013.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 20 and 22, chapter 5, Oregon Laws 2013, are repealed.**

6 **SECTION 2.** ORS 30.278, as amended by section 12, chapter 5, Oregon Laws 2013, is amended
7 to read:

8 30.278. (1) When notice is received under ORS 30.275 of a claim of professional negligence
9 against a physician, optometrist, dentist, dental hygienist or naturopath who is acting within the
10 scope of employment by a public body or within the scope of duties as defined by ORS 30.267, the
11 person receiving the notice shall report to the appropriate licensing board, in the same manner as
12 required by ORS 742.400, the information required by ORS 742.400 to be reported by insurers [*or*
13 *self-insured associations*].

14 **(2) This section does not apply to a notice of adverse health care incident received under**
15 **section 2, chapter 5, Oregon Laws 2013.**

16 **SECTION 3.** ORS 31.250, as amended by section 14, chapter 5, Oregon Laws 2013, is amended
17 to read:

18 31.250. (1) In any action described in subsection [(5)] **(6)** of this section, all parties to the action
19 and their attorneys must participate in some form of dispute resolution within 270 days after the
20 action is filed unless:

21 (a) The action is settled or otherwise resolved within 270 days after the action is filed; or

22 (b) All parties to the action agree in writing to waive dispute resolution under this section.

23 (2) Dispute resolution under this section may consist of arbitration, mediation or a judicial
24 settlement conference.

25 (3) Within 270 days after filing an action described in subsection [(5)] **(6)** of this section, the
26 parties or their attorneys must file a certificate indicating that the parties and attorneys have
27 complied with the requirements of this section.

28 (4) The court may impose appropriate sanctions against any party or attorney who:

29 (a) Fails to attend an arbitration hearing, mediation session or judicial settlement conference
30 conducted for the purposes of the requirements of this section;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (b) Fails to act in good faith in any arbitration, mediation or judicial settlement conference
 2 conducted for the purposes of the requirements of this section;

3 (c) Fails to timely submit any documents required for an arbitration, mediation or judicial
 4 settlement conference conducted for the purposes of the requirements of this section; or

5 (d) Fails to have a person with authority to approve a resolution of the action available at the
 6 time of any arbitration hearing, mediation session or judicial settlement conference conducted for
 7 the purposes of the requirements of this section, unless the party or attorney receives from the
 8 court, before the hearing, session or conference commences, an exemption from the requirements of
 9 this paragraph.

10 **(5) This section does not apply to parties to an action described in subsection (6) of this**
 11 **section that have participated in a discussion and mediation under sections 3 and 5, chapter**
 12 **5, Oregon Laws 2013.**

13 [(5)] (6) The provisions of this section apply to any action in which a claim for damages is made
 14 against a health practitioner, as described in ORS 31.740, or against a health care facility, as defined
 15 in ORS 442.015, based on negligence, unauthorized rendering of health care or product liability un-
 16 der ORS 30.900 to 30.920.

17 **SECTION 4.** ORS 742.407, as amended by section 16, chapter 5, Oregon Laws 2013, is amended
 18 to read:

19 742.407. (1) As used in this section:

20 (a) "Adverse event" means a negative consequence of patient care that is unanticipated, is
 21 usually preventable and results in or presents a significant risk of patient injury.

22 (b) "Claim" means a written demand for restitution for an injury alleged to have been caused
 23 by the medical negligence of a health practitioner or licensed health care facility.

24 (c) "Health practitioner" means a person described in ORS 31.740 (1).

25 (d) "Patient's family" includes:

26 (A) A parent, sibling or child by marriage, blood, adoption or domestic partnership.

27 (B) A foster parent or foster child.

28 (2) An insurer may not decline or refuse to defend or indemnify a health practitioner or a health
 29 care facility with respect to a claim, for any reason that is based on:

30 (a) The disclosure to the patient or the patient's family by the health practitioner or facility of
 31 an adverse event or information relating to the cause of an adverse event;

32 **(b) A notice of adverse health care incident filed under section 2, chapter 5, Oregon Laws**
 33 **2013; or**

34 **(c) Participation in a discussion or mediation under section 3 or 5, chapter 5, Oregon**
 35 **Laws 2013.**

36 (3) A policy or contract of insurance or indemnity may not include a provision or term excluding
 37 or limiting coverage based on:

38 (a) The disclosure to a patient or the patient's family by a health practitioner or facility of an
 39 adverse event or information relating to the cause of an adverse event;

40 **(b) A notice of adverse health care incident filed under section 2, chapter 5, Oregon Laws**
 41 **2013; or**

42 **(c) Participation in a discussion or mediation under section 3 or 5, chapter 5, Oregon**
 43 **Laws 2013.**

44 **(4) An insurer may establish requirements and policy provisions for coverage of pay-**
 45 **ments of compensation made under section 3, chapter 5, Oregon Laws 2013, or as a result**

1 **of a mediation under section 5, chapter 5, Oregon Laws 2013. Requirements and policy pro-**
2 **visions established under this subsection may not be intended to or have the effect of pre-**
3 **venting meaningful participation in discussions and mediations under sections 3 and 5,**
4 **chapter 5, Oregon Laws 2013.**

5 **(5) An insurer may not provide or be required to provide information related to an ad-**
6 **verse health care incident as defined in section 1, chapter 5, Oregon Laws 2013, for creden-**
7 **tialing purposes.**

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